

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
SUMMER STEPHAN
DISTRICT ATTORNEY

December 3, 2025

Chief Joseph Ramos
San Diego Community College District Police Department
1536 Frazee Road
San Diego, CA 92108

Chief Scott Wahl
San Diego Police Department
1401 Broadway
San Diego, CA 92101

Re: Fatal shooting of Brian Maloney on October 2, 2024, by San Diego Community College District Police Officer Victor Bocaya; SDPD case No. 24040410; DA Special Operations Case No. 24-180PS; Deputy District Attorney assigned: D. Cal Logan

Dear Chief Ramos and Chief Wahl:

We have reviewed the reports and other materials compiled by the San Diego Police Department's Homicide Division concerning the circumstances leading to the shooting of Brian Maloney by Officer Victor Bocaya on October 2, 2024. A District Attorney Investigator responded to the scene and was briefed about the incident. This case was submitted to the District Attorney's Office for review on December 31, 2024. Additional documents were received on November 24, 2025.

Summary

On October 2, 2024, Officer Bocaya was off duty and dressed in civilian clothing when he drove his personal vehicle to Fiesta Island to walk his two dogs. As Bocaya was in the process of removing his dogs from his vehicle, he heard a person shouting. Bocaya turned his attention toward the source of the shouting and saw Brian Maloney quickly advancing toward him on foot. Maloney was angrily shouting at Bocaya, so Bocaya removed his police badge from his pocket, showed it to Maloney, and identified himself as an off-duty police officer.

Maloney responded by making statements about being harassed by police. Bocaya told Maloney he was going to call the police. As Bocaya began to place the call, Maloney suddenly attacked him with a knife and repeatedly stabbed him in the neck and upper torso.

Fearing for his life, Bocaya removed a handgun he carried in his pocket and fired one round at Maloney, striking him in the head. Maloney fell to the ground. Bocaya received assistance from bystanders who helped control his bleeding until police and paramedics arrived. He was taken to

a local hospital for treatment of his wounds. Maloney was treated by responding officers and paramedics but succumbed to the injury.

Persons Involved

Maloney was a 41-year-old resident of San Diego County. At the time of this incident, Bocaya had been employed by the San Diego Community College District Police Department for 25 years.

Civilian Witness One (CW1)

CW1 was at Fiesta Island unloading her bicycle from her car to prepare for a ride. She was standing at the rear of her car when she heard one gunshot. CW2 stopped his vehicle behind CW1 after he also heard the shot. They both heard Bocaya call out for help and CW1 saw Bocaya was holding his phone. Bocaya told CW1 and CW2 he had been stabbed and he just shot the person who did it. Bocaya was bleeding, so CW1 took gauze from a first aid kit in Bocaya's truck and applied the gauze to the wound to control the bleeding. CW1 heard Bocaya tell the 911 dispatcher that he was a police officer. CW1 could see a gun in Bocaya's pocket. When the police arrived, they handcuffed Bocaya and took the gun from him.

Civilian Witness Two (CW2)

CW2 was eating in his parked car on Fiesta Island and had a view of Maloney's white van. Both vehicles were on the sand about halfway between the roadway and the water. The side door of the van was open and CW2 could see legs of a person hanging out of the van so he knew someone was sitting inside the open door. When CW2 finished eating, he started his vehicle and began to drive back toward the roadway. As he did so, he saw Bocaya's green truck pass in front of him and park. CW2's window was open when he passed by Bocaya. CW2 saw Bocaya exit his truck and then heard Bocaya and another voice arguing. When CW2 got about 50 feet past Bocaya's truck, he heard a gunshot. CW2 looked in his rearview mirror and saw a person on the ground and Bocaya walking back toward his truck. CW2 believed a shooting had just occurred. He parked and got out of his vehicle and then heard a woman say someone was screaming for help. CW2 ran toward Bocaya, who already had a first aid kit out. Bocaya was bleeding from his neck and CW2 assisted him by applying pressure to his wounds until police arrived. An officer arrived soon afterwards and removed a gun from Bocaya's pocket.

Law Enforcement Officer One (LE1)

LE1 was the first officer on the scene. He approached Bocaya, who was being helped by bystanders. A bystander informed LE1 that Bocaya had a gun in his pocket. LE1 handcuffed Bocaya, removed a pistol from his left front pocket, and secured it in his vehicle. LE1 then ran to Maloney and performed CPR until paramedics arrived.

Statement of Officer Victor Bocaya

Bocaya went to Fiesta Island with his two dogs as he has done on several occasions, intending to walk them on a trail around the island. When he arrived on the island, he pulled off the pavement into a dirt area and parked his truck. Bocaya's dogs were secured in the back seat, so he got out and walked around to the rear passenger door to get them out. He heard yelling but was unsure of the origin. At first, he thought it might be a domestic violence incident occurring and he did not

believe it was directed at him. However, when he turned and looked, he saw a man, later determined to be Maloney, standing with a dog near the front of a white van. Bocaya asked Maloney if he was talking to him. Maloney put his dog in the white van and then began walking toward Bocaya. There was no one else with Maloney and Maloney appeared very upset. Bocaya took note of Maloney's large stature. Bocaya has had training on how to deal with people who are under the influence of street drugs and alcohol and those suffering a mental health crisis. Bocaya believed Maloney may have had mental health issues because he could not otherwise understand why Maloney was yelling at him.

The back door of Bocaya's truck was open and his dogs were barking so Bocaya began walking toward Maloney as Maloney was approaching him. Bocaya did this because he did not want Maloney to get close to his dogs. Bocaya removed his police badge from his pocket and showed it to Maloney, telling him he was an off-duty police officer. Maloney momentarily stopped and began shouting at Bocaya about police harassment, so Bocaya took out his cell phone and told Maloney he was going to call the police. Bocaya attempted to use his phone but was having difficulty seeing the phone screen due to the bright sunlight. As he was looking at his phone Bocaya suddenly saw a knife come toward his shoulder and realized Maloney was stabbing him repeatedly. Bocaya never saw Maloney with the knife until Maloney stabbed him with it. Bocaya tried to back away from Maloney, who was facing him from less than an arm's length away and stabbing him in the neck. Bocaya was able to take one or two steps back and removed a handgun he was carrying in a pocket holster in his right front pocket. Bocaya fired one round aiming at Maloney's upper torso and Maloney fell to the ground. Bocaya did not fire any more rounds because Maloney was on the ground, and he backed away toward his truck. Bocaya was unsure what Maloney's condition was, so he used his cell phone to call 911. At the same time Bocaya saw some bystanders nearby and called out to them for help and asked them to call 911. Bocaya knew he had been stabbed multiple times because he was bleeding from different areas on his body.

Bocaya believed if he had not fired the shot, he would have died because Maloney would have continued stabbing him. Bocaya had already been stabbed in the neck and feared he would be stabbed in the eye or head. He was carrying pepper spray with him because he had previously encountered unleashed dogs on Fiesta Island, but he did not feel pepper spray was a viable force option because Maloney was already stabbing him, and he knew the preferred distance for using pepper spray is 9 to 11 feet. He felt Maloney was too close for it to be effective in stopping the attack.

Investigation

This incident took place in an open public area of Fiesta Island which is frequented by people who engage in outdoor activities. All officer and detectives' reports, crime scene investigators' reports, audio-recorded witness interviews, body worn camera footage and police dispatch recordings were reviewed. These items were found to provide evidence corroborating Bocaya's statement.

The body worn camera evidence did not capture the shooting incident as LE1 arrived on scene after the shooting had already occurred. LE1's body worn camera recording shows LE1 arrive on

scene and make contact with civilians as they are aiding Bocaya, who is visibly bleeding. LE1 removes Bocaya's gun from his pocket and secures it in a police vehicle. LE1 then places Bocaya in handcuffs and assesses Bocaya's injuries. Bocaya and the civilians direct LE1 to where Maloney is lying on the sand. LE1 runs to Maloney, who is bleeding and unconscious. LE1 radios for assistance and begins chest compressions on Maloney. The body worn camera evidence from officers who arrived after this point shows police officers and paramedics providing medical aid to Maloney and includes recordings of statements made by witnesses.

Investigators interviewed four civilians who were in the vicinity. Two of them reported hearing the gunshot, but none of them eyewitnessed the shooting.

At the time of the shooting incident, Maloney was armed with a red and black nine-inch folding knife with a four-inch blade. When investigators recovered the knife from the ground beside Maloney, the blade was locked in the open position. The knife is visible in this position on LE1's body worn camera footage while LE1 was assessing Maloney's injuries.

Bocaya was armed with his personally-owned 9mm semi-automatic Glock pistol, model 26, capable of holding a total of 13 rounds. As stated above, the pistol was removed from Bocaya by LE1. Bocaya's badge and holster were recovered by an officer from Bocaya's pockets while Bocaya was at the hospital. The pistol was examined and contained a magazine loaded with 11 cartridges and one additional live round in the chamber. Based on the number of unexpended rounds in the magazine and gun, it was determined Bocaya fired one round.

One expended shell casing was recovered from where Bocaya indicated the shooting occurred and in the same location Maloney's body was found. The shell casing was marked as "FC 9MM Luger," which is the same marking as that of the ammunition remaining in Bocaya's gun. The location where Maloney fell after being struck by gunfire was 40 feet from Bocaya's vehicle.

Maloney sustained one gunshot wound which entered above his left eye and came to rest in his skull. The bullet and bullet fragments were recovered during the autopsy.

Bocaya was transported to the hospital and was treated for a total of six stab wounds. One stab wound was found on the left side of his neck at the base of his skull. Three stab wounds were located on the left side of his neck at the shoulder, one stab wound was at the left side of his chest, and one additional stab wound was located on the left side of his upper back. As a result of this incident, Bocaya also suffered a punctured lung and fractured ribs.

Autopsy

An autopsy was conducted on October 3, 2024. The Deputy Medical Examiner determined that Maloney suffered a single gunshot wound to the upper left eyelid and the bullet came to rest in the back of the skull. The cause of death was certified as a penetrating gunshot wound of the head and the manner of death was classified as homicide.

Toxicological testing was conducted on a sample of Maloney's blood. The testing detected the presence of cannabinoids.

Legal Standard of Criminal Liability

The Law Enforcement Officers Safety Act of 2004, a federal law codified at 18 U.S.C. § 926C, provides that qualified officers may carry a firearm while off duty. In this instance Bocaya, as a police officer employed by the San Diego Community College Police Department, met the standard required by law to carry his weapon while off duty.

California Penal Code section 835a(b) provides that “any peace officer who has reasonable cause to believe that a person they intend to arrest has committed a public offense, may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.”

Penal Code section 835a(c) sets forth the standard to evaluate a peace officer’s use of deadly force. The law provides that “a peace officer is justified in using deadly force upon another person...when the officer reasonably believes, based on the totality of circumstances, that such force is necessary” to defend against an imminent threat of death or serious bodily injury to the officer or to another person. Penal Code section 835a(c)(1)(A).

The statute provides definitions for “deadly force,” “imminent,” and the “totality of circumstances” in Penal Code section 835a(e)(1) – (3).

“‘Deadly force’ means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.” Penal Code section 835a(e)(1).

“A threat of death or serious bodily injury is ‘imminent’ when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person.” Penal Code section 835a(e)(2).

“An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.” Penal Code section 835a(e)(2).

“‘Totality of the circumstances’ means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.” Penal Code section 835a(e)(3).

“In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques, if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(2).

“[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight.

The totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” Penal Code section 835a(4).

“A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts because of resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right of self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or prevent escape or overcome resistance. For purposes of this section “retreat” does not mean tactical repositioning or other de-escalation tactics.” Penal Code section 835a(d).

Conclusion

Officer Bocaya was off duty, in plain clothes, and intending to walk his dogs when he unexpectedly found himself in a threatening encounter. As soon as Bocaya realized Maloney was directing his yelling at him, Bocaya attempted to defuse the situation by identifying himself as a law enforcement officer and by stating he was going to call the police. Bocaya’s efforts to defuse the situation, however, did not have the intended effect. When Bocaya shifted his attention to his cellular phone to dial the police, Maloney moved closer and suddenly stabbed him multiple times with a knife in the neck and torso. In that moment, Bocaya was faced with the imminent threat of serious bodily injury or death and reasonably feared for his life. He immediately addressed the imminent threat by quickly backing away and firing a single round, fatally striking Maloney. A reasonable officer in the same situation, based on the totality of the circumstances, would determine that it was necessary to apply deadly force as the application of less-than-lethal options would not have been reasonably safe or feasible in the rapidly escalating and potentially lethal situation. Therefore, Officer Bocaya bears no state criminal liability for his actions. A copy of this letter, along with materials submitted for our review, will be retained in our files.

Sincerely,



SUMMER STEPHAN
District Attorney

cc: Lieutenant Kenneth Nelson, San Diego Community College District Police Department
Captain Juan Sanchez, San Diego Police Department